

STATEMENT OF CLAIMS STATUS

Claims 1-15 are pending in the application.

Claims 1-15 are subject to restriction and/or election requirement.

///

CLAIMS AMENDMENT

Claim 1 (original) A method for protecting crop seeds and grains between planting and emergence, from destruction or compromise by insects, fungus, bacteria and other living organisms, the method consisting of contacting the crop seeds and grains with an aqueous formulation containing only water and capsicum as the active ingredient prior to planting the crop seeds and grains.

Claim 2 The method of claim 1 in which the step of contacting the crop seeds and grains includes coating the crop seeds and grains with the aqueous formulation.

Claim 3 (currently amended) The method of claim ~~1~~ 2 in which the step of ~~contacting~~ coating the crop seeds and grains includes soaking the crop seeds and grains in the aqueous formulation.

Claim 4 (currently amended) The method of claim ~~1~~ 2 in which the step of ~~contacting~~ coating the crop seeds and grains includes spraying the crop seeds and grains with the aqueous formulation.

Claim 5 (currently amended) The method of claim ~~1~~ 2 in which the step of ~~contacting~~ coating the crop seeds and grains includes forming the aqueous formulation into a thickened paste and applying the paste as a coating to the seeds and grains.

Claim 6 The method of claim 5 in which a sprayer is used in the step of applying the paste as a coating to the seeds and grains.

///

Claim 7 (currently amended) The method of claim ~~1~~ 2 in which the step of ~~contacting~~ coating the crop seeds and grains includes vaporizing the aqueous formulation prior to contacting the crop seeds and grains therewith.

Claim 8 The method of claim 7 in which the vapor is formed by boiling the aqueous solution.

Claim 9 The method of claim 7 in which the vapor is formed by aerosolizing the aqueous solution.

Claim 10 The method of claim 1, further comprising the step of drying the seeds and grains following contact with the aqueous formulation.

Claim 11 The method of claim 10, in which step of drying the seeds and grains utilizes circulating hot air.

Claim 12 The method of claim 10, in which step of drying the seeds and grains comprises placing the seeds and grains into a drying chamber.

Claim 13 The method of claim 12, further comprising using a conveyor belt for placing the seeds and grains into a drying chamber.

///

Claim 14 A method for protecting germinating crop seeds and grains from destruction or compromise by insects, fungus, bacteria and other living organisms, the method consisting of contacting the crop seeds and grains with an aqueous formulation containing only water and capsicum as the active ingredient during the time of emergence.

Claim 15 (currently amended) A ~~pre-emergence~~ method for protecting crop seeds and grains from pre-emergence destruction or compromise by insects, fungus, bacteria and other living organisms, the method consisting of contacting the crop seeds and grains with an aqueous formulation containing only water and capsicum as the active ingredient prior to planting the crop seeds and grains.

///

CONCLUSION

Applicant respectfully submits that for all the foregoing reasons, the claimed subject matter describes patentable invention. Furthermore, Applicant submits that the specification is adequate and that the claims are in a condition for allowance. No new matter has been entered.

Applicant hereby respectfully requests Examiner to enter these amendments, find them descriptive of useful, novel and non-obvious subject matter, and authorize the issuance of a utility patent for the truly meritorious, deserving invention disclosed and claimed herein.

Without further, Applicant does not intend to waive any claims, arguments or defenses that they may have in response to any official or informal communication, paper, office action, or otherwise, and expressly reserves the right to assert any traverse, additional grounds establishing specificity and clarity, enablement, novelty, uniqueness, non-obviousness, or other patentability, etc.

Further, nothing herein shall be construed as establishing indirectly the basis for any prosecution history, file wrapper estoppel, or similar in order to limit or bar any claim of infringement of the invention described herein, either directly or under applicable doctrine of equivalents.

///

Respectfully submitted,

RAY K. SHAHANI
ATTORNEY AT LAW

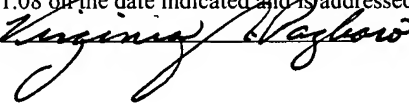
Dated: December 22, 2004

By: _____

Ray K. Shahani, Esq.
Attorney for Applicant(s)

Ray K. Shahani, Esq. Registration No.: 37,554
Attorney at Law
Twin Oaks Office Plaza
477 Ninth Avenue, Suite 112
San Mateo, California 94402-1854
Telephone: (650) 348-1444 Facsimile: (650) 348-8655
E-mail: rks@attycubed.com

CERTIFICATE OF MAILING

I hereby certify that this paper and the documents attached hereto are being deposited in a postage prepaid, sealed envelope with the United States Postal Service using First Class Mail service under 37 CFR 1.08 on the date indicated and is addressed to "Commissioner For Patents And Trademarks, Virginia 22313-1450". Signed: 

Date Mailed: December 22, 2004 .